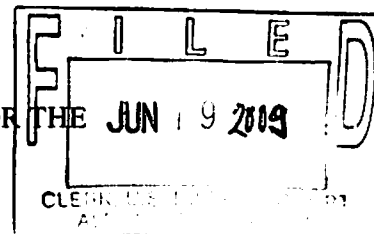


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA)

v.)

Cody Ivan Connor)

Defendant.)

1:09cr256-1 (JCC)

MEMORANDUM OPINION

This matter is before the Court pursuant to the Defendant's Motion to Reconsider Detention. For the reasons set for below the Motion is Denied.

I.

Based on the de novo¹ hearing conducted in this matter on June 19, 2009, the Court finds the relevant facts to be as follows:

Defendant Cody Ivan Connor is charged with conspiracy to distribute Marijuana in violation of 21 U.S.C. § 841 and 846.

On June 12, 2009, Magistrate Judge Buchanan conducted a preliminary hearing and detention hearing. With Pretrial Services recommending release with a number of conditions, including a third party custodian, the Magistrate Judge found that the defendants mother was not a suitable third party custodian

II.

In deciding whether or not a defendant poses a danger to the community, thus mandating his detention pending trial, the Court must consider the factors set forth in 18 U.S.C. § 3142(g).

¹De novo review is conducted pursuant to United States v. Williams, 753 F.2d 329, 333 (4th Cir. 1985).

These factors include:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug.

The defendant has been charged with one count of conspiracy to distribute Marijuana.

(2) The weight of the evidence against the accused.

The evidence put on by the government at the Motion to Reconsider on June 19, 2009, shows that the Defendant was arrested at his house and had five weapons plus drugs and money in his bedroom, also in his storage area down the hall from his bedroom was located were two Kevlar vests.

(3) The history and characteristics of the accused.

The Pretrial Services Report shows the Defendant is twenty five years of age and has been unemployed since May 2009. He has prior convictions for defacing property, petty larceny, curfew violations, public intoxication, probation violation, possession of marijuana, poss/control/paraphernalia, possession of marijuana and curfew violation. He resides with his mother, who is employed as a librarian.

Based on the Defendants unstable employment and the guns, drugs and money found in his residence, the personal history of prior criminal activity, it appears that there is a substantial risk for his flight.

(4) The nature and seriousness of the danger posed to any person or the community that would be posed by the accused's release.

The search warrant executed on Defendants residence indicates that had the five weapons plus the two Kevlar vests. Drugs and money were also found in his bedroom.

According the Court finds that there are no conditions or combination of conditions would insure the appearance of the Defendant at trial and the safety of the community.

Alternatively, because this is a “presumption case” the Court will deny the Defendant motion because the Defendant has not rebutted the ensuing presumption that there are no conditions or combination of release which would assure the appearance of the Defendant at trial and the safety of the community.

Defendant proffered Dr. Edwin Clever, family friend and pastor, who indicated he was willing to serve as third party custodian for Defendant. Dr. Clever would not be a good third party custodian because he works 7:30 a.m. to approximately 9:30 p.m. Secondly, his mother, Mrs. Connor is employed as a librarian in Manassas City School District for thirty years working Monday through Friday from 8:00 a.m. until 4:00 p.m. She also has a number of health issues. Also considering the guns, drugs and money found in her sons bedroom would indicate that she is not a suitable custodian. According the Defendant has not rebutted the presumption that “no condition or combination of conditions will reasonably assure the appearance of the [Defendant] as required and the safety of the community....” 18 U.S.C. § 3142(e). Accordingly the Defendants Motion to Reconsider is DENIED.

June 19, 2009
Alexandria, VA

/s/
James C. Cacheris
United States District Judge